Government of Saskatchewan

Annual Report 2004-2005

Saskatchewan Justice

Saskatchewan Police Complaints Investigator

Saskatchewan Centennial 2005

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This annual report is also available in electronic form from the department's web site at **www.saskjustice.gov.sk.ca**

Letters of Transmittal

Her Honour the Honourable Dr. Lynda M. Haverstock
Lieutenant Governor of Saskatchewan

May It Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Police Complaints Investigator Annual Report for the period of April 1, 2004 to March 31, 2005.

Frank Quennell, Q.C.
Minister of Justice and Attorney General

The Honourable Frank Quennell, Q.C.
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Police Complaints Investigator Annual Report for the period of April 1, 2004 to March 31, 2005.

Robert W. Mitchell, Q.C.
Complaints Investigator

Mission Statement

The Complaints Investigator is a non-police person appointed by the government to ensure that both the public and police receive a fair and thorough investigation of a complaint against the police.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when a citizen feels he or she has not been treated fairly by a police officer and for that reason a Citizen Complaint Procedure was set out in *The Police Act, 1990*. It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of co-operation that now exists.

Governing Legislation

Role of the Complaints Investigator

Civilian review of public complaints against the police began in the United States in the 1960's. Since then it has spread around the world and developed so that today, Canada is recognized as a leader in the public complaints field. On January 1, 1992, Saskatchewan brought in a new procedure for the handling of complaints against municipal police with the appointment of a Complaints Investigator. Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the Investigator are as follows:

(1)(a) record the complaint received;

(b) establish and maintain a record of all public complaints received by the police services and their dispositions;

(c) inform, advise and assist complainants;

(d) advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;

(e) monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and

(f) inspect annually, or at those times directed by the minister, the records, operations and systems of administration for the handling of public complaints by police services.

(2) In exercising the duties of the investigator pursuant to this section, the investigator:

(a) shall receive and obtain information respecting a public complaint from the complainant;

(b) may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;

(c) may request access to any files or other material in the possession of the police service relevant to a public complaint; and

(d) may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

Complaints Investigator

Robert W. Mitchell, Q.C. was appointed to replace Elton R. Gritzfeld, Q.C. on July 1, 2004, as the new complaints investigator. Mr. Gritzfeld made an enormous contribution to the public complaint process during his 12 year tenure.

Mr. Mitchell, a former Saskatchewan Minister of Justice, brings a wealth of experience and intimate knowledge of the many issues dealing with public confidence in municipal policing in Saskatchewan. Mr. Mitchell's experience will greatly benefit this office, as the public complaint program faces the challenges the proposed changes will bring in the coming year.

Administrative Staff/Accommodation

John A. Clarke - Director
Wendy McGough - Administrative Assistant

During 2005, a new office will be opened in Saskatoon which will be staffed by two field investigators and one administrative support person. As well, an additional field investigator will be added to the Regina office. These additional resources will greatly enhance our investigative abilities.

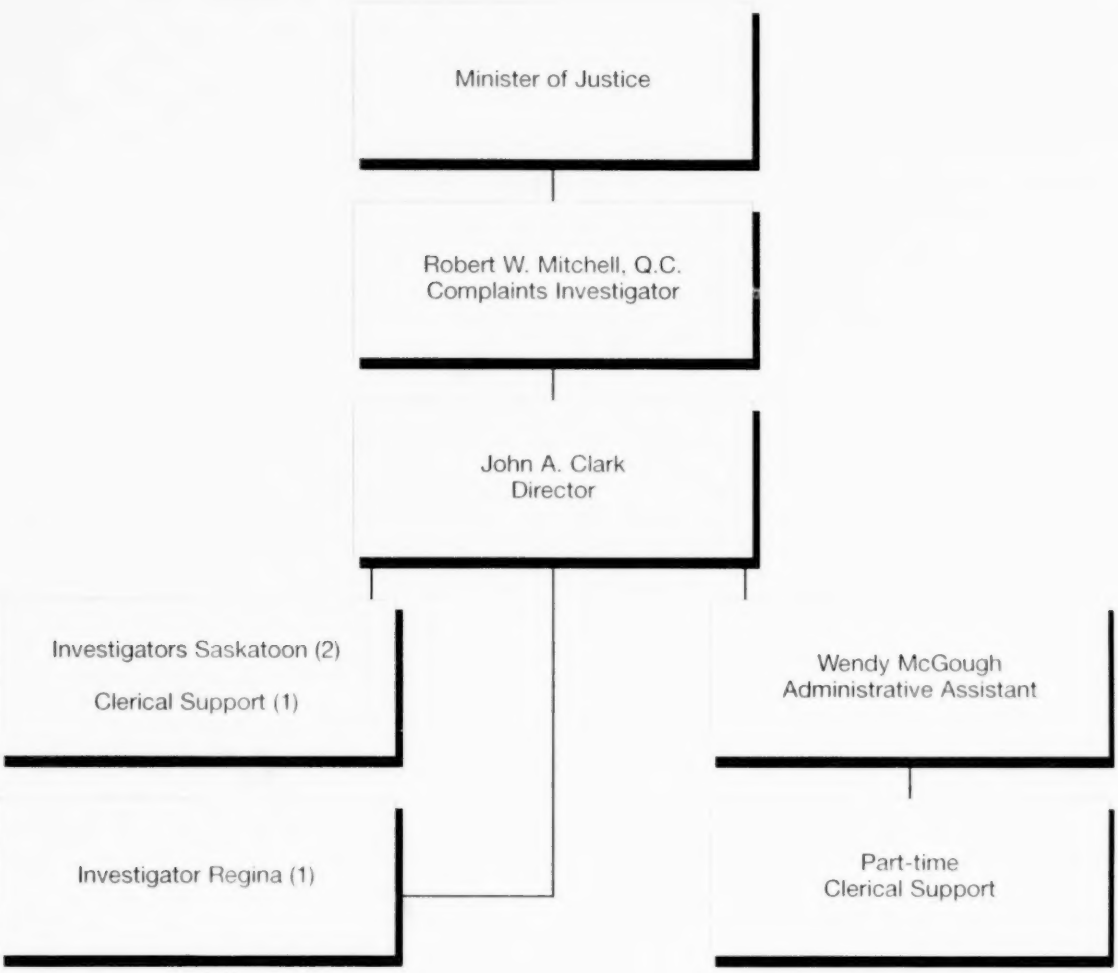
Saskatchewan Police Complaints Investigator
6th Floor - 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 3V7

Telephone: (306) 787-6519
Fax: (306) 787-6528

and

Saskatchewan Police Complaints Investigator
9th Floor - 122 3rd Avenue North
Saskatoon, Saskatchewan S7K 2H6

Organizational Structure



Proposed Changes to the Public Complaints Process

The procedure for the handling of complaints against municipal police is in the process of changing. Subject to approval of the Legislature, the role of the Complaints Investigator will be assumed by a panel of five persons, with a chair and vice-chair persons, all to be appointed by the Lieutenant Governor in Council. This panel will include representatives from various communities in Saskatchewan who will be involved in the consultative process to select the panel members. The difficult decisions now being made by the Complaints Investigator will thereafter be made by the panel.

To properly reflect the greater independence of this office, the proposed changes will also include a new title. When approved, the Office of the Saskatchewan Police Complaints Investigator, will become the Public Complaints Commission.

Hitherto, the majority of complaints against municipal police have been investigated by the police service concerned, with the Complaints Investigator providing civilian oversight to ensure that public complaints are handled in a manner consistent with the public interest. This approach of police investigating their own members has, to some extent, negatively affected the credibility of the program.

Under the new procedure and with the addition of a new investigative staff, the panel will be able to choose between four options. Most sensitive or controversial complaints will be investigated and determined by this office. In some situations the panel may request an outside police service to conduct the investigation. The police service concerned may investigate with the assistance of an observer appointed by this office to monitor the investigation. Minor complaints may be handled by the police service concerned, subject to the same oversight as presently exercised.

The objective of these changes is to improve the confidence of the members of the public in the functioning of this office and our ability to provide a thorough and unbiased public complaint process.

Proposed Organizational Structure – Public Complaints Commission

* The Public Complaints Commission will consist of a panel of five individuals including a chairperson and vice-chairperson. The panel will be appointed by the Lieutenant Governor in Council. The panel will replace the "Complaints Investigator" with expanded responsibilities.

2004-05 Activities and Results

For the period April 1, 2004 to March 31, 2005 this office processed 127 complaints against municipal police officers in the province.

Noted below is the time frame involved to receive the complaint, investigate, review the matter and advise the complainants of the action taken with respect to their concern.

Time Frame	% of Complaint Files
0-30 days	10.2%
31-60 days	6.3%
61-90 days	1.6%
91-120 days	3.2%
121-150 days	5.5%
151-180 days	3.9%
Over 181 days	6.3%
Pending	63.0%

The following pages show the breakdown of complaints for each of the eleven Municipal Police Services and two Rural Municipality Police Services in the province.

Saskatchewan Police Complaints Investigator
April 1, 2004 to March 31, 2005

	Number of Complaint Files		Number of Complaint Files
Regina	43	Dalmeny	0
Saskatoon	61	Fire Hills Agency	1
Moose Jaw	4	Luseland	0
Prince Albert	7	Stoughton	0
Estevan	5	R.M. of Corman Park	3
Weyburn	2	R.M. of Vanscoy	0
Caronport	1		
Total Number of Files	**127**		

Findings of Complaints Received
April 1, 2004 to March 31, 2005

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawn/ Other	Not Yet Completed	Total
Regina	8	4	22	5	21	60
Saskatoon	0	0	6	18	40	64
Moose Jaw	1	0	0	0	3	4
Prince Albert	0	0	0	1	6	7
Estevan	0	0	0	1	4	5
Weyburn	0	0	0	0	2	2
Caronport	0	0	0	0	1	1
Dalmeny	0	0	0	0	0	0
Fire Hills Agency	1	0	0	0	0	1
Luseland	0	0	0	0	0	0
Stoughton	0	0	0	0	0	0
R.M. Corman Park	0	0	0	0	0	0
R.M. Vanscoy	0	0	0	0	3	0
TOTAL	**10**	**4**	**28**	**25**	**0**	***147**

* While 127 complaints were filed - some had multiple complaints and findings

Definition of Complaint Findings
Substantiated - Supported by evidence
Unsubstantiated - Allegation cannot be proved or disproved
Unfounded - Unsupported by evidence

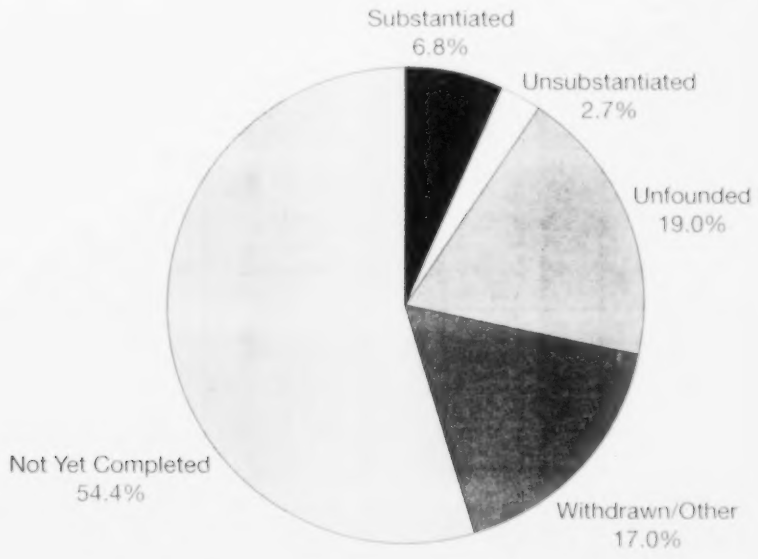
Classification of Substantiated / Unsubstantiated Complaints
April 1, 2004 to March 31, 2005

Police Service	Substantiated	Description	Unsubstantiated	Description
Regina	1	36Av	2	36Fii
	3	36C	1	37Ai
	2	37C	1	37E
	1	37E		
	1	37Ei		
Moose Jaw	1	37Ai		
File Hills	1	36C		

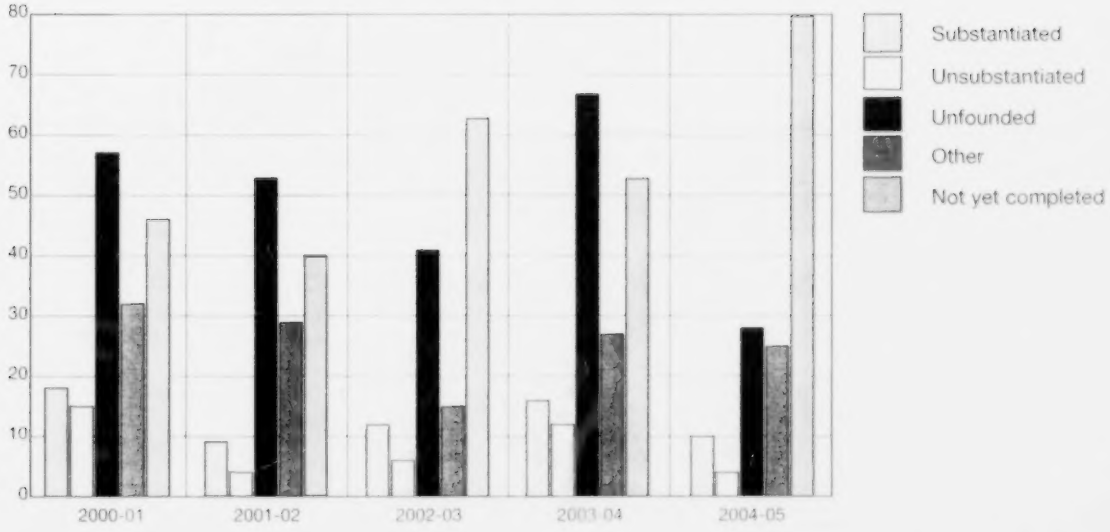
36Av Discreditable Conduct
36C Neglect of Duty
36Fii Abuse of Authority

37Ai Discreditable Conduct
37C Neglect of Duty
37E Abuse of Authority
37Ei Abuse of Authority

Complaint Findings
April 1, 2004 to March 31, 2005



Five Year Comparative Statistics



Saskatchewan Police Complaints Investigator
Types of Complaints Received
April 1, 2004 to March 31, 2005

	Total	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	Stoughton	Fife Hills	Corman Park	Vanscoy
Discreditable Conduct	**17**	10	6	1	0	0	0	0	0	0	0	0	0	0
Neglect of Duty	**12**	10	1	0	0	0	0	0	0	0	0	1	0	0
Insubordination	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	**3**	1	2	0	0	0	0	0	0	0	0	0	0	0
Corrupt Practice	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority	**28**	17	11	0	0	0	0	0	0	0	0	0	0	0
Improper Use of Firearms	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Damage to Police Property	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor/Drugs	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	**0**	0	0	0	0	0	0	0	0	0	0	0	0	0
Others	**8**	2	4	0	1	1	0	0	0	0	0	0	0	0
Not Yet Completed	**80**	21	40	3	6	4	2	1	0	0	0	0	3	0

Case Summaries

The following case summaries are a cross-section of the types of complaints received. The increased use of informal resolutions by the various police services is gratifying to note, particularly when complaints are based on a lack of communication, or a lack of understanding in terms of police procedures and their enforcement/investigational duties and responsibilities.

• Mr. P complained that a police officer, operating a marked police vehicle, failed to stop for a red light when making a right turn at an intersection. Mr. P stated the police vehicle failed to come to a complete stop and rolled into the intersection; this caused him to brake sharply to avoid hitting the police vehicle. He estimated the speed of the police vehicle to be 40 kph.

Mr. P was adamant that the police officer be charged under *The Highway Traffic Act*.

The police officer stated that the police vehicle was stopped at the red light and moved through the intersection as the traffic light was changing. The officer observed Mr. P's vehicle to be stopped for the opposing light as the police vehicle turned through the intersection.

The initial investigation conducted by the host police service resulted in the officer being charged under S. 65(5)(b) of *The Highway Traffic Act*. Concerns were raised on the officer's behalf that the investigation had not followed the appropriate course of action required by S. 47 of *The Police Act, 1990*, which states in part: 'that the actions of a member may constitute an offence pursuant to an Act ... the chief or the investigator shall refer the matter to the Minister ...'. The traffic ticket was withdrawn and the matter was forwarded to Public Prosecutions, Saskatchewan Justice, for their review. Public Prosecutions stated that as Mr. P's accounts are inconsistent and there was insufficient evidence from a third party, the case did not meet the prosecution standard and recommended that no charges be laid against the police officer. The matter was referred back to the Chief of Police.

During the course of the investigation, it was found that the police officer, when initially informed of the complaint by a supervisor, told the supervisor that the officer had slowed to a crawl to turn at the intersection. The supervisor failed to make notes of the conversation. This matter was treated as an internal complaint.

The Chief of Police, having due regard for all the circumstances and based on the balance of probabilities, found that the officer did not come to a complete stop at the intersection. The officer's actions were deemed to be discreditable conduct and the Chief of Police provided the officer with advice as to future conduct. The Chief of Police also provided the supervisor with advice as to future conduct for not keeping proper and precise notes.

My review supported the findings of the investigation and the action taken against both police officers. This case demonstrates the seriousness with which public complaints are investigated by the host police service. Even though Public Prosecutions recommended against charging the officer with a traffic offence, the Chief reviewed the officer's conduct under the provisions of *The Municipal Police Discipline Regulations, 1991*, and took appropriate action. Additionally, the Chief took appropriate action when the conduct of the supervisor was found to be lacking.

• Mr. N complained that an off-duty police officer used excessive force when the officer tried to arrest him, by throwing him to the ground and breaking his arm. Mr. N stated the person did not initially identify himself as a police officer.

The investigation determined that Mr. N, along with two friends, were drinking and Mr. N was in possession of a bottle of vodka. According to his friends, Mr. N had crushed a pill against a brick and was sniffing it. This took place in the alley behind the police officer's home. The investigation determined the officer found three individuals acting in a suspicious manner. He identified himself as a police officer; this placed the officer on duty and subject to the provisions of *The Police Act, 1990* and *The Municipal Police Discipline Regulations, 1991*. The police officer stated that he advised Mr. N he was under arrest. Mr. N resisted the arrest and would not comply with the police officer's request.

As the complaint included excessive use of force, the circumstances were reviewed by Public Prosecutions, Saskatchewan Justice, who stated

that the officer was in the lawful execution of his duties and the amount of force used was justified. Further, that the injury sustained by Mr. N was an unfortunate accident.

The matter was returned to the Chief of Police for his review. Prior to the review being completed, the police officer resigned from the police service for personal reasons not related to this complaint. The resignation of the police officer resulted in a loss of jurisdiction as the provisions of *The Police Act, 1990* and *The Municipal Police Discipline Regulations, 1991*, could no longer be applied.

My review supported the findings and recommendations of Public Prosecutions and I advised Mr. N accordingly. Furthermore, I advised Mr. N that had the officer not resigned, I would have concluded there was no improper conduct on behalf of the police officer.

The distinction in this matter was that the off-duty officer identified himself as a police officer, thereby placing himself on duty, and regardless that the resignation of the officer caused a loss of jurisdiction, it was important to complete my review and advise Mr. N of the outcome.

• Mr. K and his same sex partner, Mr. L, came into the police station to file a report of a hit and run accident involving their parked vehicle. They were dissatisfied with the service received, felt the officer did not believe their statements and felt the officer displayed an inappropriate attitude towards them because of their sexual orientation.

"We were dismissed, talked down to and treated poorly. It was very clear that this officer had a problem with us, mainly my partner, who is obviously gay."

The police officer was interviewed and provided the rationale as to why the accident report sounded suspicious. When informed of the concerns raised by Mr. K and Mr. L about the officer's negative attitude towards them, being based upon their sexual orientation, the officer denied their allegation. The officer suggested that a meeting be arranged to discuss their concerns. The officer expressed concern that Mr. K and Mr. L left the police station with the wrong impression.

The investigator contacted Mr. K and Mr. L and advised them of the officer's remarks and the officer's recommendation that a meeting be held to ally any misconceptions. Mr. K and Mr. L accepted the officer's explanations and didn't think a meeting was necessary. Subsequently, the investigator received an e-mail from Mr. K thanking the investigator for his continued attention to their issues and expressed satisfaction with the outcome. "We both feel this has been done and that much has been learned from this experience. We would like to thank you and your department for the attention and execution to our complaint."

My review was very supportive of this informal resolution. I acknowledged the police officer's suggestion to meet with Mr. K and Mr. L to address their concerns in an informal manner. The officer's willingness and openness to meet with Mr. K and Mr. L certainly helped dispel their concerns. This outcome clearly demonstrates that many public complaints can benefit from the informal resolution process. This approach avoids lengthy investigations and promotes prompt solutions to citizens' concerns.

• A senior Crown prosecutor (CP) advised he was assigned to prosecute a charge of impaired driving. He stated he made several requests of the investigating police officer to forward additional information. The police officer when contacted, had stated the information would be forthcoming. The CP stated the information had not been received prior to the trial date and the charges were "stayed". The CP advised there were other issues with the investigation that would have made a successful prosecution unlikely. The CP stated the police officer's conduct did not meet the standard that would be required to consider the officer's conduct in terms of the obstruction of justice.

My office investigated this matter at the request of the Chief of Police. Documentation on the police file confirmed the prosecutor had contacted the officer and made the requests. The police officer was interviewed and readily accepted responsibility. The officer stated that they forgot about the requests as they were busy with other duties and investigations. The investigation substantiated the CP's allegation and the matter was referred to the Chief of Police for review under

the provisions of *The Police Act, 1990* and *The Municipal Discipline Regulations, 1991.*

The Chief of Police treated the matter as a major offence against discipline for neglect of duty. The Chief issued a letter of reprimand, placed the officer on probation for one year, and required the officer to provide a written report on how the officer planned to: organize and maintain files, organize daily activities to promote an efficient work schedule and how the officer was going to be reminded of important tasks.

My review supported the action taken by the Chief of Police. The shortcomings of the police officer's conduct were noted and appropriately addressed in terms of discipline.

• Ms. M stated she was arrested and escorted to the police detention facility. She complained that during the booking-in process, she was forced to the floor by the police officers and sustained a broken bone in her ankle and extensive bruising to both arms and legs.

Ms. M had been arrested following an investigation where an intoxicated female had broken the large picture window in a house, had crawled through the window and threatened occupants with a knife.

Ms. M had fled the scene prior to the arrival of the police. The initial police investigation determined the person responsible appeared to have sustained injuries from crawling through the broken window, which would have required medical attention. Ms. M was subsequently located at a local hospital. The police officers had sufficient evidence to arrest Ms. M, who then abruptly refused medical attention and attempted to walk out of the hospital. Ms. M was hostile and belligerent towards the police officers and spit blood several times as she was being escorted to the police vehicle and continued to spit blood inside the vehicle enroute to the police detention facility.

The police officers were interviewed and stated the force used was not excessive given the circumstances and confrontational attitude and physical actions of Ms. M. The booking area at the police detention facility is audio/video taped. This tape was reviewed and clearly supported the police officers' account of what had happened. Ms. M was not being cooperative; one of the officers held her head so that she could not move it as her photograph was being taken and to prevent her from spitting at the officers. The tape showed Ms. M suddenly bend over and in a twisting, turning motion, pull away from the officer. The police officer reacted and turned with Ms. M and in the same motion pushed Ms. M to the floor and fell on top of her. Ms. M screamed and swore at the officers that her leg was broken. The tape showed that the amount of force used was not excessive and not intentional. It was an unfortunate accident.

While the tape supported the officer's statement that the injury was accidental, the tape showed the officers did not take her claim of injury seriously enough due to her belligerent attitude and escorted her to a cell. Medical attention was not received until the following morning. Additionally, the tape clearly showed the use of inappropriate language as two officers talked about Ms. M in front of another prisoner. My review brought this to the attention of the Chief of Police who reviewed the officers' conduct and issued advice as to future conduct for not making further inquiries to confirm Ms. M's injury and for the inappropriate language used.

My final review supported the findings of the investigation and the action taken against the officers. This summary highlights the important role that audio/video tapes can play in the resolution of public complaints.

Allocation of Budget 2004-2005

The following figures show the approved budget for the 2004-2005 fiscal year.

	2004-2005
Approved Budget	$269,000
Salaries, Honorariums, Per Diems	121,959
Operating Expenses	46,306
	$168,265